



MEETING SUMMARY

CALIFORNIA WATER PLAN UPDATE 2013
TRIBAL WATER SUMMIT PLANNING MEETING – INDIGENOUS RIGHTS TO WATER
10:00 A.M. – NOON
CCP LARGE CONFERENCE ROOM, 815 S STREET SACRAMENTO, CA

MEETING OBJECTIVES:

1. Complete Agenda Development Worksheet for the Indigenous Rights to Water Session.

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Welcome and Introductions

Stephanie Lucero, Tribal facilitator, recapped that the meeting focus would be on discussing agenda concepts for the Summit theme if “Indigenous Rights to Water.” Introductions were made around the room and on the phone to begin the meeting.

Main Points

It was stated that session deliverables should lead to answers to the following questions:

- Who is responsible for California Native Americans regarding this topic? (What’s the definition of State?)
- What is being done around Tribal water resource, access, uses and rights?



Speakers and Presenters

Public Trust Doctrine (de-commodification of water)

- A better phrase is needed to convey the concepts associated with Public Trust Doctrine. (Perhaps, “De-commodification of Water.”) This relates to Tribal v. non-Tribal perspectives on water. The Public Trust Doctrine is a legal framework that moves beyond the concept of water as commodity.
- Potential white papers (or outline of key issues, bibliography of resources):
 - Public Trust Doctrine and Trinity River (Tribal issues with Public Trust Doctrine). How might case law be waivable under certain terms and conditions? What works or doesn’t work?
 - Water – not a commodity.
 - Compilation of issues throughout State. Perhaps build on Water Stories – pull out recent local issues and create a summary of how it affects Tribes; then point to where there is more information.
- Potential Speakers:
 - Jan Stevens, past California AG Office
 - Bill Steele, Bureau of Reclamation
 - Bob Laidlaw, Department of Interior Senior Advisor, Palm Springs Office
 - John Corbett, Yurok

ACTION ITEM: Stephanie to send Jan Stevens’ article, on Public Trust Doctrine, to Ruthie Maloney and John Corbett.

ACTION ITEM: Stephanie to contact Bill Steele and discuss potential for speaking on Public Trust Doctrine. Bill Steele does work on Title 16 and recycled water.

ACTION ITEM: Stephanie to contact Jan Stevens as a potential speaker.

ACTION ITEM: Ruthie Maloney to contact John Corbett and discuss topic suggestions.

ACTION ITEM: Call out to Tribal AC and Tribal listserve to send in regional issues and concerns regarding Indigenous Rights to Water.

ACTION ITEM: Ruthie Maloney we will be discussing Tribal Water Stories at the January TWS Design team meeting. Ron Goode will look at budget and funding, and Ruthie Maloney will help coordinate. There is an archeologist looking to bring in Southern California Tribal voices for Water Stories.

ACTION ITEM: Look at video clips from 2009 Water Stories videotapes, to create a montage of clips before speakers come on.



Spiritual Component

Life begins with water; bring in a tribal (historical) story showing that Tribes have always been connected to water. Life is water. There are cultural and religious connection to water, and the ways in which water plays into spiritual life. While practices are different (variations among Tribes – boat dance, sweat lodges); the concepts regarding spiritual life are universal (cleansing, purifying, healing, renewal). Would talk about universal concepts, examples of how it manifests.

How does water quality affect spiritual practices, connections to water, and how water is used? Bring in the Indigenous Rights to Water diagram and show how quality and diversions affect spiritual relationship with water (and traditional uses). The Winnemum Wintu case story is a good example, and we may want to find a case study that wasn't discussed at the previous summit.

- Potential speakers
 - Mervin George, Sr., Hupa
 - Chris Peters, Seventh Generation
 - Susan Masten, Yurok
 - Check 2009 White Paper author on Water Rights

ACTION ITEM: Ruthie Maloney to contact Merv George, Chris Peters and Susan Masten to check on availability.

ACTION ITEM: Look at who wrote the white papers from the 2009 TWS

- Water as Sacred: authored by Don Hankins, Chico State, Miwko/Osage
- Rivers, Dams and Fish: authored by Mark Franco, Winnemum Wintu
- Watersheds: authored by Michael Connolly Miskwish, Campo Band of Kumeyaay
- Tribal Water Rights, Delia Parr and Jedd Parr, California Indian Legal Services
- Tribal Water Rights (Water Management and Federally-reserved Rights to Take Fish): authored by the Hoop Valley Tribe, Thomas P. Schlosser
- Tribal Participation in California Water Planning: authored by Curtis Berkey, Alexander, Berkey, Williams & Weathers, LLP

All 2009 TWS Briefing Papers are posted online at: www.waterplan.water.ca.gov/tribal2/tws

Cultural Uses

- Potential speakers
 - Grace Dick, Mono Lake Paiute or Donna Vasquez, from Bishop to discuss cultivated resources, and access to resources for protection and stewardship.
 - Susan Masten, Yurok
 - Jennifer Bates, CIBA
- Basket weavers are encountering water quality which affects roots. The roots are turned different colors, and they can't be cleaned to the point where they're usable. There are locations with cultural materials, but they have been contaminated from waters and floods



and those roots cannot be used. Materials are often put into weavers' mouths, so there is an issue of contamination (silvacultural use of pesticides) and health.

- Does there need to be a component on subsistence activities? (This also relates to public trust and watershed health.)
- NOTE FOR MODERATOR: Some cultural aspects tie into watershed and TEK sections: traditional management and the ability to burn help improve quantity of water, as well as watershed health and regeneration of water-dependent cultural resources. Wildfire also reduces catastrophic burns.

ACTION ITEM: Ron Goode to contact Grace Dick.

ACTION ITEM: Ruthie to connect with Kimberly Johnston-Dodds and Marlon Sherman on TEK.

ACTION ITEM: Stephanie to send links to Humboldt TEK Symposium and North Pacific LCC.

ACTION ITEM: Judie and Stephanie to look at toolkit formats and options, including links to resources.

Legal Perspective

How do laws apply to relate to multiple aspects of Indigenous Rights to Water (international, Federal, State perspectives on water rights)? How do laws approach the perspective that water is not a commodity (spiritual uses of water, cultural uses of water)?

Everyone is looking at settlement of water rights, why is there a push for settlement instead of litigation? How is it possible to shape perspectives regarding the commonality of all peoples, water rights and spiritual water? Where does the law stand on these issues? What is the scope of legal frameworks to consider (international, Federal, State)? It would help to identify California Native American attorneys, with a background in water, who could speak on legal aspects.

The Hidalgo Treaties address the issues of use, subsistence, and original use and needs from the land. How does the law apply to native people today? How does that relate to the history of California and tribal Indigenous rights? The 1849 statutes to the rights to gather provide the original basis for right to the land, since Congressional treaties were not taken up.

- Potential speakers:
 - Doug Garcia, BIA
 - Stuart Somach
 - Steve Quesenberry
 - Curtis Berkey
 - Rovianna Leigh
 - NCAI



ACTION ITEM: Kimberly Johnston-Dodds and Stephanie Lucero to contact potential speakers for legal perspective.

ACTION ITEM: Judie to contact San Luis Rey to see if a Tribal attorney was involved in their perfection of water rights.

ACTION ITEM: Ruthie will look to help identify Native American attorneys (or judges) who may bridge the legal and non-legal aspects.

Regional Water Issues Regarding Indigenous Rights to Water

- Use 2009 Tribal Water Stories as foundation.
- Ruthie Maloney will discuss Tribal Water Stories at the Jan. 24 meeting. Ron Goode will look at budget and funding, and Ruthie Maloney will help coordinate. There is an archeologist looking to bring in Southern California Tribal voices for Water Stories.

ACTION ITEM: Call out to Tribal AC, Tribal Communications listserve regarding regional water issues pertaining to Indigenous Rights to Water.

Case Studies/Examples, etc.

- Acknowledge ongoing aspects of Winnemum Wintu case study.
- Identify additional cased studies for access and water flow issues (Hupa Boat Dance, North Lahontan sweatlodges).
- Soboba settlement and groundwater component (groundwater laws don't help Tribes preserve water rights) – possible White Paper.

Challenges, Breakthroughs and Lessons Learned

Approaches and perspectives:

- Federal and state jurisdictional approach to water rights (Legal water rights)
- Aboriginal rights to water (UN concept to water rights – related to legal water rights discussion)
- Access for cultural and spiritual uses (related to UN concept).

Perception of Water: Water as commodity versus water as sacred, essential or spiritual entity

- Commodity versus valued in a non-commodity manner.
- Sacred = needs to be prayed for, cared for, restored. (E.g. Not that water can't be used.)
- What do we mean by, "We All Drink from the Same Water"?
- Bridge the difficulty for people understanding water as sacred—water as essential to life.



- Reiterate our waters come out of the forest either in homelands or adjacent to current locations (rancherias, communities, reservations, etc.). Many of the waters that are still actually good are called non-potable and pipes are being removed from year-round streams. Access to water is not available to us from water that is directly from our lands. However, we are fined to use the water, yet water companies lay claim to the water either from springs and creeks. Down by Pala, a company is pumping groundwater from the mountain that is sacred to these people. Yet, the Tribes are not receiving compensation, water, or other resources. Tribes have never relinquished rights to water that is being removed, or rights to the water from aboriginal lands.

Next Steps

ACTION ITEM: Convene a teleconference call with potential speakers to discuss key points of presentations and creating a stream of consistency (early February).

ACTION ITEM: Stephanie to send Jan Stevens' article, on Public Trust Doctrine, to Ruthie Maloney and John Corbett.

ACTION ITEM: Contact potential speakers by January 22, 2013:

- Stephanie to contact:
 - Bill Steele and discuss potential for speaking on Public Trust Doctrine. He works on Title 16 and recycled water.
 - Jan Stevens as a potential speaker.
 - Speakers for legal perspective (with Kimberly Johnston-Dodds)
- Ruthie Maloney to contact:
 - John Corbett and discuss topic suggestions.
 - Merv George, Chris Peters and Susan Masten to check on availability.
- Ron Goode to contact:
 - Grace Dick, Mono Paiute
 - Donna Vasquez, Bishop
 - Jennifer Bates, CIBA
- Judie to contact:
 - San Luis Rey

ACTION ITEM: Call out to Tribal AC and Tribal listserve to send in regional issues and concerns regarding Indigenous Rights to Water.

ACTION ITEM: Look at video clips from 2009 Water Stories videotapes, to create a montage of clips before speakers come on.

ACTION ITEM: Look at who wrote the white papers from the 2009 TWS.

ACTION ITEM: Stephanie to send links to Humboldt TEK Symposium and North Pacific LCC.



ACTION ITEM: Judie and Stephanie to look at toolkit formats and options, including links to resources.

ACTION ITEM: Ruthie will look to help identify Native American attorneys (or judges) who may bridge the legal and non-legal aspects.

ACTION ITEM: Confirm tentative date of February 13, 2013 for next TWS meeting (day-long), with time allocated to Indigenous Rights to Water (2:00 – 4:00 p.m.). Send announcement.

ACTION ITEM: Next Tribal AC meeting – set 2013 Tribal AC schedule (to debrief Summit) in May.

ACTION ITEM: Stephanie, Ron and Ruthie to connect on Water Stories, Jan. 15th at 10:00 a.m.

Attendance

Lois Conner, North Fork Mono Tribe

Ron Goode, North Fork Mono Tribe

Emily Alejandrino, DWR Tribal Coordinator Work Team Lead

Via Webinar

Chuck Jachens, BIA

Ruthie Maloney, Yurok

Christina Mokhtarzadeh, BIA

Dale Morrris, BIA

Facilitation Team: Stephanie Lucero, Tribal Facilitator; Judie Talbot, facilitation support; Center for Collaborative Policy, CSU Sacramento